HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No. 15780 of 2007

Between:

Masood Ali Khan & another

… Petitioners

And

The Kurnool Municipal Corporation, Kurnool,
Rep. By its Commissioner, Kurnool.

… Respondent

:: O R D E R ::

Counsel for the petitioners : Shri B. Purushothama Reddy

Counsel for the respondent : Shri A.Sridhar

July 27, 2007

Per G.S. Singhvi, CJ

This is a petition for quashing notice dated 09.07.2007 issued by Kurnool Municipal Corporation (for short, 'the Corporation') under Sections 441, 443, 452, 461, 462 and 636 of Hyderabad Municipal Corporations Act, 1955 (for short, 'the Act') for demolition of the alleged illegal/unauthorised construction made by the petitioners in commercial complex bearing Municipal Door No.40-321 situated at Abdullakhan Estate.

One of the grounds on which the petitioners have questioned the

notice for demolition is that the same was not preceded by any show cause notice.

Yesterday, Shri Purushothama Reddy sought adjournment to file supplementary affidavit of his clients to the effect that notice under Section 452 of the Act was not issued to them. The required affidavit has been filed today. The same is taken on record.

Shri A. Sridhar, learned Standing Counsel for the Corporation fairly stated that notice under Section 452 of the Act was not given to the petitioners before issuing the impugned notice for demolition of the structures. He then stated that the impugned notice may be treated as a notice under Section 452 of the Act and appropriate order will be passed by the competent authority after considering the representation, if any made by the petitioners.

In view of the statement made by the learned counsel for the respondent, the writ petition is disposed of in the following terms:

(1) The notice impugned in the writ petition is quashed with the direction that the same be treated as a notice issued under Section 452 of the Act read with Andhra Pradesh Municipal Corporation Act, 1994 so as to enable the petitioners to submit representation against proposed demolition of the structure.

(2) Within three weeks from today, the petitioners may, if so advised, file reply to the notice issued by the Corporation in the matter of proposed demolition of the alleged illegal/unauthorized construction made by them. The petitioners may also make a request for being afforded an opportunity of hearing.

(3) Within next three weeks, the competent authority of the Corporation shall, after giving opportunity of personal hearing, if asked for by the petitioners, pass a speaking order in the

matter of removal of the unauthorized structure/construction, if any made by the petitioners.

(4) If the petitioners volunteer to remove the illegal construction/unauthorized structure, then they may be given reasonable time of one month to do so.

(5) If the petitioners do not remove the illegal construction/unauthorized structure, if any, within the time specified by the Corporation, then the latter shall be free to remove/demolish the same in accordance with law.

As a sequel to disposal of the writ petition, W.P.M.P.Nos.20011 and 20447 of 2007 filed by the petitioners for interim relief are disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

July 27, 2007
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